

DELBELLO DONNELLAN
WEINGARTEN WISE & WIEDERKEHR, LLP
Proposed Counsel for the Debtor
One North Lexington Avenue
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Dawn Kirby Arnold, Esq.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

SHIROKIA DEVELOPMENT LLC,

Chapter 11

Case No. 14-12341

Debtor.

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**DEBTOR'S MOTION FOR ENTRY OF ORDER DIRECTING CLERK
OF THE COURT TO TRANSFER VENUE OF THE DEBTOR'S
BANKRUPTCY CASE TO EASTERN DISTRICT OF NEW YORK,
BROOKLYN DIVISION**

**TO: HONORABLE MARTIN GLENN,
UNITED STATES BANKRUPTCY JUDGE:**

The above-captioned Chapter 11 debtor Shirokia Development, LLC (the "Debtor"), by her attorneys, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, hereby submits this motion (the "Motion") for entry of an order directing the Clerk of the Court to transfer the venue of the Debtor's bankruptcy case to the Eastern District of New York. In support of the Motion, the Debtor respectfully represents and set forth as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this proceeding to 28 U.S.C. § 157(a) and 1334.
2. Venue is proper pursuant to 28 U.S.C. § 1408 and 1409.
3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (0).
4. This proceeding has been made pursuant Bankruptcy Rules 1014(a)(2).

BACKGROUND

5. On August 12, 2014 (the “Petition Date”) the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

6. The Debtor’s principal place of business is located at 142-28 38th Avenue, Flushing, New York 11354 in Queens County, New York. The proper venue for cases filed in Queens County, New York is the Eastern District of New York, Brooklyn Division.

7. Due to a software error, when the Debtor’s case was filed, Debtor’s counsel’s ECF filing software incorrectly designated the Debtor’s case to the Southern District of New York instead of the Eastern District of New York.

RELIEF REQUESTED AND BASIS FOR RELIEF

8. By this Motion, the Debtor is seeking to transfer the venue of this proceeding from the Southern District of New York to the Eastern District of New York

9. Bankruptcy Rule 1014, in relevant part, states as follows:

(a) Dismissal and transfer of cases

(2) Cases filed in improper district

If a petition is filed in an improper district, the court, on the timely motion of a party in interest or on its own motion, and after hearing on notice to the petitioners, the United States trustee, and other entities as directed by the court, may dismiss the case or transfer it to any other district if the court determines that transfer is in the interest of justice or for the convenience of the parties.

Fed. R. Bankr. P. 1014

10. Bankruptcy Rule 1014(a)(2) allows the transfer of cases when a petition was filed in an improper district. The Debtor’s case was mistakenly filed in the Southern District of New York, and should have been filed in the Eastern District of New York. Under Bankruptcy Rule 1014(a)(2) the Court may transfer this case to the Eastern District.

NOTICE

11. Notice of this Motion has been provided to: (i) the Office of the United States Trustee, and (ii) any party having filed a notice of appearance and request for service of papers filed in this case. The Debtor submits that said notice is adequate and proper.

12. No previous application for the relief herein requested has been made to this or any other Court.

WHEREFORE, the Debtor respectfully requests that the Court enter the proposed order annexed hereto as **Exhibit “A”**, directing the Clerk of the Court to transfer venue of the Debtor’s bankruptcy case to the Eastern District of New York, Brooklyn Division, together with such other and further relief as is just under the circumstances.

Dated: White Plains, New York
August 12, 2014

DELBELLO DONNELLAN WEINGARTEN
WISE & WIEDERKEHR, LLP
Attorneys for the Debtor
One North Lexington Avenue
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(914) 681-0200

By: /s/ Dawn Kirby Arnold
Dawn Kirby Arnold

DelBello Donnellan Weingarten
Wise & Wiederkehr, LLP
Proposed Counsel for the Debtor
One North Lexington Avenue
White Plains, New York 10601
(914) 681-0200
Dawn Kirby Arnold, Esq.

Presentment Date: August 19, 2014
Presentment Time: 12:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

SHIROKIA DEVELOPMENT LLC,

Debtor.

Chapter 11
Case No. 14-12341

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AFFIDAVIT PURSUANT TO LOCAL RULE 9077-1(a)

STATE OF NEW YORK)
) SS.:
COUNTY OF WESTCHESTER)

DAWN KIRBY ARNOLD, ESQ., being duly sworn, deposes and says:

1. Deponent is an attorney duly admitted to practice before this Court and the Courts of the State of New York.

2. Deponent submits this affidavit pursuant to Local Rule 9077-1(a) in support of the Debtor's motion for an order directing the clerk of the court to transfer venue to the Eastern District of New York, Brooklyn Division (the "Motion").

3. It is necessary for the Debtor to proceed by shortened notice because, as set forth more fully in the Motion, if the Debtor were to proceed under the ordinary twenty-one (21) day notice provisions of the Local Bankruptcy Rules, the Debtor's chapter 11 case would be unduly delayed.

4. The Debtor needs prompt relief to ensure that the Debtor's case is transferred to the U.S. Trustee's office in the Eastern District of New York, Brooklyn Division. The granting

of the Motion will enable the Debtor to timely attend its rescheduled §341 meeting and work with the U.S. Trustee's office to provide proof of compliance with the office's guidelines.

5. It is in all parties' best interests for the Debtor ensure swift transmittal of the case to the correct venue, the Eastern District of New York, Brooklyn Division.

WHEREFORE, your Deponent respectfully requests the consideration of the Application and entry of an Order approving such Application on shortened notice, together with such other and further relief as is proper.

/s/ Dawn Kirby Arnold
Dawn Kirby Arnold

Sworn to me this 13th day
of August, 2014

/s/ Bryn Leonardo
NOTARY PUBLIC
STATE OF NEW YORK

Exhibit “A”

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

SHIROKIA DEVELOPMENT LLC,

Chapter 11

Case No. 14-12341

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**ORDER SCHEDULING NOTICE OF PRESENTMENT ON SHORTENED NOTICE
ON THE DEBTOR'S MOTION TO TRANSFER VENUE TO THE
EASTERN DISTRICT OF NEW YORK, BROOKLYN DIVISION**

UPON the motion of the above-captioned debtor and debtor-in-possession (the "Debtor"), by its attorneys, DelBello Donnellan Weingarten Wise & Wiederkehr, LLP, and its request for an Order Scheduling Notice of Presentment on the Debtor's Motion for an Order Transferring Venue to the Eastern District of New York, Brooklyn Division (the "Motion"), and upon the Affidavit of Dawn Kirby Arnold, and sufficient cause appearing therefore, it is hereby

ORDERED, that the proposed Order annexed to the Motion will be presented for signature to the Honorable Martin Glenn, United States Bankruptcy Judge, at the United States Bankruptcy Court, One Bowling Green, New York, New York 10004 on the 19th day of August, 2014, at 12:00 p.m.; and it is further

ORDERED, that the event that an objection is received, the Court will hold a hearing with respect to the Motion on the 19th day of August, 2014 at 3:00 p.m.; and it is further

ORDERED, that a copy of this Order Scheduling Hearing together with the Affidavit of Dawn Kirby Arnold and the Motion and Exhibits, thereto shall be served upon (i) the U.S. Trustee, (ii) the Debtor's Secured Creditors, (iii) counsel to any Committee, if one has been appointed and if not, to Debtor's twenty (20) largest Rule 1007(d) unsecured creditors, and (iv)

parties having filed a notice of appearance by facsimile, electronic mail, or overnight delivery on or before August 14, 2014, which shall be deemed good and sufficient service hereof; and it is further

ORDERED, that objections to the relief requested in the Motion must be in writing, stating with specificity the basis or bases on which such party in interest objects to the relief requested, filed with the Bankruptcy Court at the address stated above (with a copy to Chambers) on or before August ____, 2014 at ____ a.m. / p.m.

Dated: New York, New York
August ____, 2014

HON. MARTIN GLENN
UNITED STATES BANKRUPTCY JUDGE